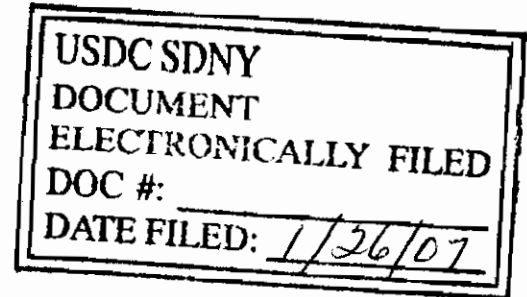


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**MEMO ENDORSED**



**BY HAND AND FACSIMILE**

January 22, 2007

Hon. James C. Francis IV  
United States Magistrate Judge, Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1960  
New York, New York 10007-1312

Re: Concepcion v. City of New York, et al. 05-CV-8501(KMK)(JCF)

Dear Judge Francis:

Thank you for giving us an opportunity to reply to the sur-reply submitted by counsel for the City of New York, Jeffrey Dougherty.


The issue of the TARU tapes is still outstanding. At the deposition of our client on December 19, 2006, we were shown certain tapes, both TARU tapes and a tape which we were advised, was produced by plaintiff's counsel on the Adams case. We objected to the showing of these tapes to our client prior to having had an opportunity to review these tapes with our client prior to the deposition. Mr. Dougherty advised that the TARU tapes were available at the offices of the Corporation Counsel for viewing by counsel, and that we had simply missed our opportunity to view these tapes prior to the deposition. He proceeded to show the tapes to our client, and request that she identify certain scenes on the tapes, including one scene which allegedly showed our client from the rear. We had no way of knowing how Mr. Dougherty, who had never met our client, was able to identify her from the rear, and we requested copies of these tapes as well as any other tapes and photos in which she appears, prior to the next deposition. We offered to pay the cost of copying these tapes, and it was agreed that Corporation Counsel would provide the tapes. We repeatedly requested that these tapes be forwarded to us prior to the continued deposition of our client scheduled for January 25, 2007. The only tapes we have received to date, are the Adams tapes which we received on Friday, January 18, 2007. It appears, therefore, that Corporation Counsel has no intention of providing the TARU tapes in time for review prior to our client's continued deposition.

We therefore request that the Court direct Corporation Counsel's office to provide copies of the TARU tapes, and any other tapes resulting from the arrest and detention of people on Union Square/East 16<sup>th</sup> Street, on August 31, 2004, including but not limited to

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tapes in which our client appears, together with any photos of our client. As with all other disclosure previously provided in this case, we should have an opportunity to review same with our client at our offices. If Corporation Counsel cannot timely produce these tapes and photos for viewing by our client prior to the deposition, we request permission to adjourn the deposition until such tapes are produced.

Very truly yours,

  
KAREN WOHLFORTH, ESQ.  
ZELDA STEWART, ESQ.

Cc: Jeffrey A. Dougherty, Esq. , by facsimile

1/25/07  
Applications denied. Plaintiff's counsel has long had access to these videotapes. If she wished to know which specific ones would be utilized at a deposition, she could have inquired.

SO ORDERED.  
James C. Francis IV  
USMJ